

Thomas Jodoin

From: Thomas Jodoin
Sent: Tuesday, October 2, 2018 2:48 PM
To: Loretta Burnham; Ryan Leland (RLELAND@helenamt.gov)
Subject: CDM Smith pretreatment contract

This came back with the changes made but page 2 is not included. If you send me the digital version I will make sure everything is in order and see if we can get by without going back to Darrel for signature.

10/17/18 Page 2 is now attached.
CC: Jamie ^{CLARKE} When we send to Manager
+ MATT CULPO
C

CONTRACT/CONSULTANT CHECKLIST:

Department: Public Works

Division: Waste Water Utility

Budgeted Amount: \$30,000.00

Contractor/Consultant: CDM Smith

Contract/Consultant Amount: \$25,894.00

Budget Line Item: Other Contracted Services

Budget Coding: 531-3137-436-3056

Project Number: N/A

Scope of Services: Engineering services to revise local limits, update SIU permits, develop a sampling and analysis plan, review the overall program, assist with EPA correspondence and conduct project meetings.

Insurance/Registration:

Department Approval:

Attorney Review:

Project Description: Pretreatment Program – Local Limits

RECEIVED

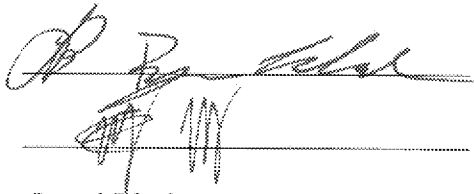
SEP 26 2018 *(initials)*

CITY ATTORNEY'S OFFICE

RECEIVED

OCT 18 2018

CITY MANAGER


Two handwritten signatures are present. The first signature is written over a horizontal line and appears to be 'D. B. Keller'. The second signature is written below the first, also over a horizontal line, and appears to be 'J. M. [unclear]'. Both signatures are in dark ink.

[THIS AGREEMENT IS NOT BINDING IF USED FOR PUBLIC WORKS CONTRACTS EXCEEDING \$25,000 OR CONTRACTS EXCEEDING \$80,000. THIS LIMITATION DOES NOT APPLY TO CONTRACT FOR PROFESSIONAL SERVICES]

AGREEMENT FOR SERVICES

THIS AGREEMENT is made and entered into by and between the **CITY OF HELENA, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, 316 North Park Avenue, Helena, Montana 59623, hereinafter referred to as "City," and CDM Smith Inc., 50 West 14th Street, Suite 200, Helena, MT 59601 hereinafter referred to as "Contractor," collectively referred to as "Parties."

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** The purpose of this Agreement is for the Contractor to provide the City with engineering services related to the City's Pretreatment Program.
2. **Effective Date and Term:** This Agreement is effective upon execution by both parties, and will terminate on 6/30/2020. Any extension of the term of this Agreement must be set forth in writing and signed by both parties.
3. **Scope of Services:** Contractor will perform the work and provide the services in accordance with the specifications and requirements as follows:
Contractor will provide engineering services to revise local limits, update SIU permits, develop a sampling and analysis plan, review the overall program, assist with EPA correspondence, and conduct project meetings as defined in Exhibit A and according to the Project Schedule as defined in Exhibit C.
4. **Payment (check one):**

☒ City agrees to pay Contractor Twenty-Five Thousand Eight-Hundred Ninety-Four Dollars (\$25,894) for performance of this Agreement. Any alteration or deviation from the described work that involves extra costs will be executed only upon written request by the City to Contractor and will become an extra charge over and above the contract amount. The parties must agree upon any extra charges in writing.

☐ City agrees to pay the Contractor according to the following fee schedule with the total amount due under this Agreement not to exceed insert \$ amount in WORDS. Dollars (insert \$ amount in NUMBERS):
Insert Fee Schedule HERE.

5. **Receipt of Payment (check one)**

To receive payment, Contractor must submit a record of expenditures incurred for the performance and completion of this Agreement in the form acceptable to the City. The City may request supporting documentation to verify any expenditure prior to making payment. For any services delivered under this Agreement, the City may request inspection to assure said services meet City specifications prior to tendering payment.

☒ **30 Days After Receipt of Invoice, Verification, and Inspection:** The City has thirty (30) days to make payment after the later of the date of delivery of services, the City's receipt of a properly executed invoice, or the successful passage of a City-requested inspection.

☐ **Payment will be according to following schedule:** Insert a DETAILED payment schedule here if you agree to anything other than payment 30 days after invoice. Ex. dates of instalment payments, if any completion conditions must be made prior to receipt of next installment, % due upfront, etc.

6. **Warranty of Services/Products:** Contractor warrants that the services provided conform to the contract requirements, including all descriptions, specifications, and attachments made part of this Agreement. Contractor warrants that all services will be performed in a good workman-like, professional manner, and according to all applicable industry standards. Contractor acknowledges that it will be liable for any breach of this warranty for the lesser of a period of one (1) year from the time services are completed or any warranty described in the Scope of Services. Contractor will make reasonable efforts to assign 3rd party warranties to the City to the extent possible. City's acceptance of any non-conforming services does not relieve the Contractor from its obligation under this warranty and does not waive any remedy available to the City. In addition to the remedies available to the City under this contract, at law or in equity, the City may require prompt correction, at Contractor's expense, of any services failing to meet the warranties contained in this section.

If any products or parts are being provided by the Contractor as part of this Agreement, the Contractor warrants that the products or parts supplied conform to the specifications requested, are fit and sufficient for the purpose manufactured, are of good material and workmanship, and are free from defect for a period of 30 days from the date of shipment, installation, or for the duration of the product warranty, whichever period is greater. City's acceptance of any non-conforming products or parts does not relieve the Contractor from its obligation under this warranty and does waive any remedy available to the City.

7. **Independent Contractor Status:** The parties agree that Contractor is an independent contractor for purposes of this Agreement and is not to be considered an employee of the City for any purpose. Contractor is not subject to the terms and provisions of the City's personnel policies handbook and may not be considered a City employee for workers' compensation or any other purpose. Contractor is not authorized to represent the City or otherwise bind the City in any dealings between Contractor and any third parties.

Contractor must comply with the provisions of the Montana Workers' Compensation Act. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. This insurance/exemption must be valid for the entire term of this Agreement and any renewal. Upon expiration, Contractor must send a proof of renewal to the City.

8. **Contractors' Gross Receipts Tax:** Contractor understands that all contractors or subcontractors working on a publicly funded project are required to pay or have withheld from earnings one percent (1%) of the gross contract price if the gross contract price is more than Five Thousand (\$5,000.00) Dollars in accordance with Title 15 Chapter 50 of the Montana Code Annotated.
9. **Hold Harmless and Indemnification:** For other than professional services rendered Contractor agrees, to the fullest extent permitted by law, to protect, defend, hold harmless, and save the City, its elected and appointed officials, officers, agents, employees, and volunteers from any and all losses, damage, liability and causes of action of any kind or character, including the cost of defense thereof, occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act or omission on the part of the Contractor or Contractor's agents, employees, officers, representative, assignees, or invitees, in connection with this Agreement. If any such claim arises, demand, or cause of action arise solely from the City's own negligence, Contractor need not so protect or defend.

For any professional services rendered, to the fullest extent permitted by law, Contractor agrees to indemnify, protect, defend, hold harmless, and save the City, its elected and appointed officials, officers, agents, employees, and volunteers against claims, demands, suits, damages, losses, and expenses, including reasonable defense attorney fees, to the extent caused by any intentional or negligent act or omission of the Contractor or Contractor's agents, employees, officers, representative, assignees, or invitees, in connection with this Agreement. If any such claim arises, demand, or cause of action arise solely from the City's own negligence, Contractor need not so protect or defend. For the purposes of this Agreement "professional services" is defined as provision of any services that require licensure by the Montana Department of Labor.

15. **Website Privacy Policy:** Contractor agrees to comply with and follow the City's Website Privacy Policy in order to ensure the data security and data quality of personally identifiable information that is collected during the course and scope of this project.
16. **Records Access and Retention:** Contractor agrees to create and retain records supporting the services rendered or goods delivered in connection with this Agreement. Contractor agrees, to the extent permitted by law, to provide the City, or the City's authorized agent, access to any such records at the City's request. The City may terminate this Agreement without incurring liability if the Contractor refuses to allow access to records as provided in this section. Contractor agrees to retain any records concerning this Agreement for eight (8) years after the Agreement termination date. The obligation to maintain records required by this section survives the termination or the expiration of this Agreement.
17. **Ownership and Publication of Materials:** If any reports, information, data, or other materials are prepared by the Contractor pursuant to this Agreement these reports, information, data, or other materials become the property of the City. The City has the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any re-use of these materials by the City without written verification or adaptation by the Contractor for the specific purpose intended will be at the City's sole risk and without liability or legal exposure to the Contractor. No material produced in whole or in part under this Agreement may be copyrighted or patented in the United States or in any other country without the prior written approval of the City.
18. **Notice Protocol:** Any notice or demand required or permitted to be given under the terms of this Agreement must be in writing. Written notice shall be deemed given when hand-delivered, or when mailed by first class mail, postage prepaid, to the addresses specified in this section, or by e-mail with confirmation of delivery.

The City's liaison for purposes associated with this Agreement is:

Name: Donald Clark
Address: 316 N. Park Ave
Phone: 406-459-0708
E-Mail: DClark@helenamt.gov

The Contractor's liaison for purposes associated with this Agreement is:


Name: Travis Meyer
Address: 50 West 14th Street, Suite 200, Helena, MT 59601
Phone: 406-441-1429

Exhibit C -- Project Schedule

25. **Amendments in Writing**: All amendments to this Agreement must be in writing and executed by all parties to this Agreement.
26. **Governing Law and Venue**: This Agreement and any extensions hereof shall be governed and construed in accordance with the laws of the State of Montana. If a dispute arises, the proper venue for the hearing of the case is the District Court of the First Judicial District of the State of Montana, in and for the County of Lewis and Clark.
27. **Headings**: The section headings contained in this Agreement are for reference purposes only and do not affect the meaning or interpretation of the Agreement.
28. **Severability**: If any term or provision of this Agreement is held to be illegal, void or in conflict with any Montana law, the validity of the remaining terms and conditions shall not be affected. The rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular term, condition, or provision held to be invalid.


IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates stated below.

FOR THE CITY OF HELENA MONTANA

Signed: 
By: Dennis Taylor, Interim City Manager
Troy McBeck Acting

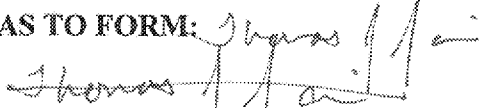
Dated: 10/18/18

FOR THE CONTRACTOR

Signed: 
By: Darrel Stordahl, Project Principal

Dated: 9-12-2018

APPROVED AS TO FORM:

Signed: 
By: Thomas J. Jodan, City Attorney

10/18/18
Dated: 9-26-18

EXHIBIT A: Project Scope of Services

City of Helena Wastewater Pretreatment Program Assistance

CDM Smith Inc. (hereafter referred to as CDM) will assist City of Helena (hereafter referred to as the City) with updating the Wastewater Pretreatment Program including local limit submission to EPA, updates to Industrial User Permits, assistance with EPA progress reports, and development of a Sampling and Analysis Plan. CDM will also review and provide comments on City developed documents and procedures for the Pretreatment Program.

This scope of services includes the critical tasks requested by the City. CDM will provide comprehensive engineering services including, but not limited to the following activities:

Task 1 - Project Management:

- 1.1 Project and Financial Management: This task includes overall management of the project including progress tracking, financial tracking, invoicing, and project status reporting.

Task 2 - Revise Local Limits

- 2.1 Review Monitoring Data & Recommend Additional Sampling: Review Prickly Pear Creek data, WWTP influent, effluent, biosolids, and hauled waste data, significant industrial user data, and collection system data for 2017 through July 2018 and recommend additional sampling if needed.
- 2.2 Review Status of Permit Limits: Discuss MPDES Permit status with MDEQ and review draft permit limits when available for public comment.
- 2.3 Finalize EPA Region 8 LL Spreadsheet: Determine appropriate period of record and incorporate appropriate data into the EPA Region 8 Local Limits Spreadsheet.
- 2.4 Local Limits Submittal to EPA: Prepare Local Limits Submittal for City review and EPA submission. Submittal includes local limits spreadsheet and documentation of process.

Task 3 - SIU Permit Updates

- 3.1 Review potential for TTO discharge by DIP: Review DIP SDS Sheets to determine if Total Toxic Organics (TTOs) are discharged from the facility.
- 3.2 Summarize DIP Permit Updates: Provide memo to City recommending updates for DIP permit for City to incorporate into the permit and re-issue.

Task 4 - Develop a Sampling and Analysis Plan

- 4.1 Review existing sampling procedures: Review City's sampling procedures at both DIP and MRL.
- 4.2 Review existing sampling locations: Review City's sampling location at both DIP and MRL.
- 4.3 Review laboratory reporting limits: Review capabilities of laboratory reporting .

| Task | Description | Total Hours | D Stordahl Principal | T Meyer Project Mgr | L. Wiegand Proect Engr | Finance | Clerical | Labor Cost |
|---------------------------------|---|-------------|-------------------------|------------------------|---------------------------|----------|----------|------------|
| Task 1 | Project Management | | | | | | | |
| 1.1 | Project and Financial Management | 26 | 2 | 14 | 4 | 6 | | \$4,253 |
| | Subtotal | 26 | 2 | 14 | 4 | 6 | | \$4,253 |
| Task 2 | Revise Local Limits | | | | | | | |
| 2.1 | Review data & recommend additional sampling | 8 | | 2 | 6 | | | \$1,002 |
| 2.2 | Review status of permit limits | 6 | | 4 | 2 | | | \$655 |
| 2.3 | Finalize EPA Region 8 LL spreadsheet | 17 | | 1 | 16 | | | \$1,864 |
| 2.4 | Local Limits submittal to EPA | 26 | | 4 | 20 | | 2 | \$3,017 |
| | Subtotal | 57 | | 11 | 44 | | 2 | \$6,838 |
| Task 3 | SIU Permit Updates | | | | | | | |
| 3.1 | Review potential for TTO discharge by DIP | 5 | | 1 | 4 | | | \$606 |
| 3.2 | Summarize DIP Permit Updates | 12 | | 4 | 8 | | | \$1,584 |
| | Subtotal | 17 | | 5 | 12 | | | \$2,190 |
| Task 4 | Develop a Sampling and Analysis Plan | | | | | | | |
| 4.1 | Review existing sampling procedures | 7 | | 1 | 6 | | | \$815 |
| 4.2 | Review existing sampling locations | 4 | | 1 | 3 | | | \$501 |
| 4.3 | Review laboratory reporting limits | 5 | | 4 | 1 | | | \$850 |
| 4.4 | Prepare Sampling & Analysis Plan | 44 | | 8 | 28 | | 8 | \$5,124 |
| | Subtotal | 60 | | 14 | 38 | | 8 | \$7,291 |
| Task 6 | Assistance with EPA Correspondences | | | | | | | |
| 6.1 | Pretreatment Status Report Feb 28, 2019 | 14 | | 3 | 10 | | 1 | \$1,695 |
| | Subtotal | 14 | | 3 | 10 | | 1 | \$1,695 |
| Task 7 | Project Meetings | | | | | | | |
| 7.1 | Kickoff Meeting | 7 | | 3 | 4 | | | \$978 |
| 7.2 | Local Limits Meeting | 5 | | 2 | 3 | | | \$687 |
| 7.3 | DIP Permit Meeting | 3 | | 1 | 2 | | | \$396 |
| 7.4 | Sampling Plan Meeting | 5 | | 2 | 3 | | | \$687 |
| 7.5 | EPA Correspondence Meeting | 7 | | 2 | 4 | | 1 | \$879 |
| | Subtotal | 27 | | 10 | 16 | | 1 | \$3,628 |
| TOTAL LABOR | | 201 | 2 | 57 | 124 | 6 | 12 | \$25,894 |
| | | | | | | | | |
| EXPENSES | | | Quantity | Units | Unit Cost | Cost | | |
| | Mileage | | | Miles | \$0.575 | | | |
| | Airline Trips | | | Trips | | | | |
| | Lodging | | | Days | | | | |
| | Meals | | | Days | | | | |
| | Printing | | | Sheets | \$0.10 | | | |
| TOTAL EXPENSES | | | | | | \$0 | | |
| | | | | | | | | |
| TOTAL ESTIMATED ENGINEERING FEE | | | | | | \$25,894 | | |

Note: See Scope of Work for detailed task descriptions and assumptions.



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
08/31/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| | | | |
|---|---|-------------------------------|-----------|
| PRODUCER Aon Risk Services Northeast, Inc. Boston MA Office 53 State Street Suite 2201 Boston MA 02109 USA | CONTACT NAME | | |
| | PHONE (A/C No. Ext): (866) 283-7122 | FAX (A/C No.): (800) 363-0105 | |
| E-MAIL ADDRESS: | | | |
| INSURED CDM Smith Inc. 75 State Street, Suite 701 Boston MA 02109 USA | INSURER(S) AFFORDING COVERAGE | | NAIC # |
| | INSURER A: National Union Fire Ins Co of Pittsburgh | | 19445 |
| | INSURER B: New Hampshire Insurance Company | | 23841 |
| | INSURER C: American Home Assurance Co. | | 19380 |
| | INSURER D: Illinois National Insurance Co | | 23817 |
| | INSURER E: ACE Property & Casualty Insurance Co. | | 20699 |
| | INSURER F: Lloyd's Syndicate No. 2623 | | AA1128623 |

COVERAGES

CERTIFICATE NUMBER: 570072900331

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

| INSR LTR | TYPE OF INSURANCE | ADDL SUBR INSD WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|----------|--|--|---|-------------------------|-------------------------|---|----------------------------|
| A | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER: | | GL3629894 | 01/01/2018 | 01/01/2019 | EACH OCCURRENCE | \$2,000,000 |
| | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | \$300,000 |
| | | | | | | MED EXP (Any one person) | \$10,000 |
| | | | | | | PERSONAL & ADV INJURY | \$2,000,000 |
| | | | | | | GENERAL AGGREGATE | \$4,000,000 |
| | | | | | | PRODUCTS - COMP/OP AGG | \$4,000,000 |
| A | <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY A <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY | | CA 1921822 AOS CA 1921821 MA | 01/01/2018 | 01/01/2019 | COMBINED SINGLE LIMIT (Ea accident) | \$2,000,000 |
| | | | | 01/01/2018 | 01/01/2019 | BODILY INJURY (Per person) | |
| | | | | | | BODILY INJURY (Per accident) | |
| | | | | | | PROPERTY DAMAGE (Per accident) | |
| E | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION | <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE | X00G28194687002 | 01/01/2018 | 01/01/2019 | EACH OCCURRENCE | \$1,000,000 |
| | | | | | | AGGREGATE | \$1,000,000 |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in MT) If yes, describe under DESCRIPTION OF OPERATIONS below | Y / N N / A | WC014649625 AOS WC014649626 AK,AZ,VA | 01/01/2018 | 01/01/2019 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER | |
| B | | | | 01/01/2018 | 01/01/2019 | E.L. EACH ACCIDENT | \$1,000,000 |
| | | | | | | E.L. DISEASE-EA EMPLOYEE | \$1,000,000 |
| | | | | | | E.L. DISEASE-POLICY LIMIT | \$1,000,000 |
| F | Archit&Eng Prof | | PSDEF1800033 Professional/Claims Made | 01/01/2018 | 01/01/2019 | Each Claim Aggregate | \$2,000,000 \$2,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Provide the City with engineering services related to the City's Pretreatment Program. The City of Helena, MT is included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies. General Liability evidenced herein is Primary and Non-Contributory to other insurance available to an Additional Insured, but only in accordance with the policy's provisions.

CERTIFICATE HOLDER**CANCELLATION**

| | |
|--|--|
| City of Helena 316 North Park Ave. Room 421 Helena, MT 59623 USA | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. |
| | AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast Inc</i> |